



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – March 7, 2013
Commerce Committee

Testimony Submitted by Commissioner Daniel C. Esty
Presented by Deputy Commissioner Macky McCleary

Committee Senate Bill No. 759 – AN ACT CONCERNING THE WAIVER OF FINES AND PENALTIES FOR CERTAIN BUSINESS REGULATION VIOLATIONS

Thank you for the opportunity to present testimony regarding Committee Senate Bill No. 759 – An Act Concerning the Waiver of Fines and Penalties for Certain Business Regulation Violations. The Department of Energy and Environmental Protection (DEEP) offers the following testimony.

This bill proposes to waive penalties for first time violators for non-criminal violations of environmental statutes and regulations that are remediated within thirty days of the initial assessment. DEEP opposes this proposed bill for several reasons. First, DEEP is obligated to operate its enforcement programs across our air, water and waste programs in accordance with certain federal delegations of authority. This proposal is inconsistent with portions of the federal delegation and, as a result, may jeopardize our ability to uphold these requirements which are tied to the receipt of significant federal funding.

Second, the two primary policies DEEP employs to assure consistent enforcement are the Enforcement Response Policy (ERP) and the Civil Penalty Policy. The ERP provides DEEP the flexibility necessary to prioritize its enforcement resources by focusing on the most significant environmental, human health, and noncompliance problems. For businesses to compete fairly in Connecticut, we must also ensure a level playing field including the removal of any economic advantage or savings realized by noncompliance. DEEP's Civil Penalty Policy sets forth a process for calculating civil penalties in cases where a penalty is warranted.

In accordance with the ERP, two categories of violators deserve and get the most attention from enforcement staff. The first category of violators are those whose violations pose the greatest risk to public health and the environment within the State. These may be either criminal or non-criminal (civil) violations. The second category of violators subject to heightened enforcement is the chronic or recalcitrant violator. The ERP, however, also provides DEEP with the flexibility to resolve, for instance, a minor violation with compliance achieved within thirty days through an informal action without a penalty. The minor violation would not be a significant threat to public health or the environment nor provide the regulated entity any economic benefit.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison, Robert LaFrance at 860-424-3401 or Robert.LaFrance@ct.gov.